

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2002-770

June 20, 2003

MAINE PUBLIC UTILITIES COMMISSION
Investigation of Central Maine Power
Company's Stranded Cost Rates and
Request for Accounting Order

ORDER APPROVING
STIPULATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order, we approve a Stipulation entered into between Central Maine Power Company (CMP) and the Office of the Public Advocate (OPA) and thus authorize CMP to defer for future recovery, in its next stranded cost rate case, costs billed to CMP by Yankee Atomic related to Yankee Atomic decommissioning, including spent fuel storage, to the extent such costs are prudently incurred. In addition, by our approving the Stipulation, we require CMP to decrease its stranded cost rates effective July 1, 2003. This decrease lowers stranded cost revenues by \$7.4 million over the period July 1, 2003 through February 28, 2005 and will be applied to the winter rates for CMP's MGS-S, MGS-P, IGS-S, IGS-P, LGS-S and LGS-P rate classes.

II. BACKGROUND

On February 15, 2002, the Commission issued an Order Approving Stipulation in *Maine Public Utilities, Investigation of Central Maine Power Company's Stranded Cost Revenue Requirement*, Docket No. 2001-232, which established Central Maine Power Company's stranded costs for a 3-year period beginning March 1, 2002 (the stranded cost rate effective period). The Stipulation approved by the Commission provides:

The Parties recognize and agree that under 35-A M.R.S.A. § 3208(6) (West 2001), any person may petition the Commission at any time to adjust stranded cost rates for, among other things, variances between the sales forecast underlying the derivation of stranded cost rates and actual sales. Without implying any inference to the contrary, the Parties agree that requesting a prospective adjustment to stranded cost rates for sales volume variances will not be precluded by application of any principles of single-issue ratemaking. The Parties further agree that no such request may be filed by any of the Parties hereto before May 31, 2002, and no sooner than 90 days following any subsequent adjustment in stranded cost rates that occurs prior to the end of Rate Year 3.

In addition, our Order Approving Stipulation required CMP to file quarterly reports with the Commission detailing the level of CMP's sales as well as the Company's

stranded cost revenue collections from both its core and non-core customers. The Company's first two quarterly sales reports, filed in compliance with the Commission's Order in Docket No. 2001-232, indicated that sales to core customers were 7.4% higher than forecasted and that revenue from stranded cost rates appeared to be approximately \$2.9 million, or 5.5%, above projected levels.

On December 13, 2002, the Company notified the Commission that Yankee Atomic will assess its owners, including CMP, amounts above those assumed in rates for nuclear decommissioning. The exact amount and the timing of the assessment were not known at that time. In its filing, CMP requested that the Commission issue an accounting order authorizing the company to defer such increased costs for future recovery in stranded cost rates.

The Commission issued a Notice of Investigation on December 17, 2002, initiating this proceeding to review the accuracy of CMP's current stranded cost rates. The Commission noted that during this investigation it would review CMP's current sales levels, expected sales during the next several years, recovery of costs associated with decommissioning the Yankee Atomic plant, as well as the Company's request for an accounting order.

On February 7, 2003, CMP filed its direct case. CMP took the position that the current stranded cost rate over-collection was largely attributable to weather and, given its recent economic forecast for the State of Maine, it projected that revenues during the remainder of the 3-year stranded cost rate-effective period would actually be below the level used to set rates in Docket No. 2001-232. On March 18, 2003, the OPA filed the testimony of Dr. Steven Estomin, who recommended certain changes to the Company's sales forecast. On March 19, 2003, our Advisory Staff filed its Bench Analysis, which proposed an alternative forecast for residential sales and recommended modifications to the Company's adjustment for savings resulting from new Demand Side Management (DSM) programs. In addition, as part of its Bench Analysis, the Advisory Staff recommended that the Company's request for an accounting order be denied. CMP filed its rebuttal case in response to the OPA and the Advisory Staff filings on April 25, 2003.

On May 16, 2003, we received a Stipulation signed by CMP and the OPA, purporting to resolve all issues in this proceeding. In its letter accompanying the Stipulation, CMP noted that the IECG had yet to take a position on the Stipulation but planned to inform the Commission of its position in the near future. CMP also noted that the Commission's Staff actively participated in the discussions which led to the settlement agreement and that CMP understood that the Staff supported the parties' agreement. On May 22, 2003, the IECG filed comments recommending that the Commission approve the Stipulation.

III. DESCRIPTION OF THE STIPULATION AND IECG COMMENTS

Under the terms of the Stipulation, CMP will lower its stranded cost rates by an amount sufficient to lower stranded cost revenues by \$7.4 million over the period of July 1, 2003 through February 28, 2005. The reduction in rates will be allocated to the Company's MGS-S, MGS-P, IGS-S, IGS-P, LGS-S and LGS-P rate classes. Consistent with the Commission's Order in *Maine Public Utilities Commission, Order Approving Stipulations (Central Maine Power Company and Bangor Hydro-Electric Company)* Docket No. 2001-245, (Dec. 2, 2002), these reductions will be applied to reduce proportionally the winter kWh and demand charges for these classes.

The Stipulation also recommends that the Commission issue an accounting order authorizing CMP to defer several categories of costs and revenues. First, CMP would be authorized to defer costs billed to CMP by Yankee Atomic for decommissioning costs, including spent fuel storage, to the extent such costs are prudently incurred. We understand that Yankee Atomic has filed a case with the FERC requesting a resumption of Yankee Atomic decommissioning collections. The issuance of an accounting order authorizing CMP to defer costs billed by Yankee Atomic does not bind any party to any position in any proceeding regarding Yankee Atomic decommissioning costs, including spent fuel storage costs. Second, CMP is authorized to defer 50% of any stranded cost revenue differences for non-core customers and targeted programs identified in the Stipulation that result from changes in estimated prices from those revenues assumed to be collected from such customers by the stipulating parties. Finally, CMP is authorized to defer any difference in actual interest costs on CMP's share of Maine Yankee's pre-1983 Department of Energy (DOE) liability and trust earnings and the amounts set forth in the Stipulation. The net interest costs authorized for deferral include the interest on the DOE liability net of book earnings on the Spent Fuel Disposal Trust and also include any income tax consequences from tax-exempt investments of the trust. Carrying cost will be calculated monthly on the deferred balance for each of the authorized deferrals.

As noted previously, although the IECG did not sign the Stipulation, it urged the Commission to approve the Stipulation in its comments dated May 22, 2003, which state:

The IECG takes a position facially adverse to its immediate economic interest because the IECG anticipates that the Proposed Stipulation advances a continuum of actions by the Commission, the Legislature, and, more recently, Governor Baldacci's Administration to mitigate the impact of high market energy prices on Maine's economy in general, and on Maine's manufacturing economy in particular. Accordingly, the IECG has considered this Stipulation as one more step in the right direction for Maine and not as a limited or "single issue" proceeding. (footnote omitted)

IV. DECISION

As we have held on many occasions, to accept a stipulation the Commission must find that:

1. the parties joining the stipulation represent a sufficiently broad spectrum of interests that the Commission can be sure that there is no appearance or reality of disenfranchisement;
2. the process that led to the stipulation was fair to all parties; and
3. the stipulated result is reasonable and is not contrary to legislative mandates.

See *Central Maine Power Company, Proposed Increase in Rates*, Docket No. 92-345(II), Detailed Opinion and Subsidiary Findings (Me. P.U.C. Jan. 10, 1995), and *Maine Public Service Company, Proposed Increase in Rates (Rate Design)*, Docket No. 95-052, Order (Me. P.U.C. June 26, 1996). We have also recognized that we have an obligation to ensure that the overall stipulated result is in the public interest. See *Northern Utilities, Inc., Proposed Environmental Response Cost Recovery*, Docket No. 96-678, Order Approving Stipulation (Me. P.U.C. April 28, 1997). We find that the proposed Stipulation in this case meets all these criteria.

The Stipulation before us was entered into between the Company and the OPA. In past cases, we have found that these two entities, representing often opposite views in the ratemaking process, constitute a sufficiently broad spectrum of interests to satisfy the first criterion. See *Public Utilities Commission, Investigation of Stranded Cost Recovery, Transmission and Distribution Utility Revenue Requirements and Rate Design of Bangor Hydro-Electric Company (Phase II)*, Docket No. 97-596, Order at 6 (Feb. 29, 2000) and *Maine Public Utilities Commission, Investigation of Retail Electric Transmission Services and Jurisdictional Issues*, Docket No. 99-185, Order Approving Stipulation (Maine Public Service company) at 3 (Aug. 11, 2000). In this case, we also note that our Advisory Staff and the IECG, who were active participants in the settlement process, have indicated their support for the Stipulation. We are, therefore, satisfied that a broad spectrum of interests are represented by the Stipulation.

We are also satisfied, based on our review of the procedural history in this case, that all procedural safeguards have been satisfied in this instance and that the process that led to the Stipulation was fair to all parties.

Finally, we find that the stipulated result is reasonable, not contrary to legislative mandate and consistent with the public interest. Specifically, we find that the rate reductions and accounting orders proposed by the Stipulation appropriately balance the interests of CMP's shareholders and ratepayers, and based on the information available to us are likely to produce just and reasonable rates which will provide CMP with a reasonable opportunity to recover its stranded costs. We also find the allocation of the

rate reduction to CMP's MGS-S, MGS-P, IGS-S, IGS-P, LGS-S and LGS-P rate classes to be reasonable and consistent with legislative mandates. In support of this conclusion, we find that these rate classes are currently paying stranded cost rates that are significantly above the rates charged to customers in other rate classes, that such rate differences are not cost justified, and that these customers received few benefits when we reduced stranded cost rates in CMP's last stranded cost revenue requirement proceeding, Docket No 2001-232.

Accordingly it is:

O R D E R E D

1. That the May 16, 2003 Stipulation entered into between Central Maine Power Company and the Office of the Public Advocate (a copy of which is attached hereto) is approved; and

2. That the provisions of the Stipulation, including those requiring CMP to file rates calculated to reduce its stranded cost revenue collections by \$7.4 million during the period of July 1, 2003 through February 28, 2005 and authorizing CMP to defer with carrying costs certain costs and revenues, are incorporated by reference into this Order.

Dated at Augusta, Maine, this 20th day of June, 2003.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Nugent
Diamond
Welch

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.